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6 **UNITED STATES DISTRICT COURT**
7 **SOUTHERN DISTRICT OF CALIFORNIA**
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9 ADELIDIA CORTEZ,

10 Plaintiff,

11 vs.

12 ING BANK, FSB; INTERGRATED
13 LENDER SERVICES; all persons
14 unknown claiming to have legal,
equitable, lien, and estate against the
subject property located at 1503 Dubuque
Street, Oceanside, CA 92058; DOES 1 to
50 inclusive,

15 Defendants.

CASE NO. 11cv1532-WQH-WVG

ORDER

16 HAYES, Judge:

17 The matter before the Court is the Motion to Dismiss filed by Defendant ING Bank,
18 FSB ("ING Bank"). (ECF No. 4).

19 **BACKGROUND**

20 On July 7, 2011, Plaintiff, proceeding pro se, initiated this action by filing a Complaint
21 in San Diego County Superior Court. (ECF No. 1, Ex. A).

22 On July 12, 2011, ING Bank removed the action to this Court, alleging federal question
23 jurisdiction. (ECF No. 1).

24 On July 27, 2011, ING Bank filed a Motion to Dismiss the Complaint pursuant to
25 Federal Rule of Civil Procedure 12(b)(6). (ECF No. 4).

26 **DISCUSSION**


27 A district court may properly grant an unopposed motion pursuant to a local rule where
28 the local rule permits, but does not require, the granting of a motion for failure to respond. *See*

1 *Ghazali v. Moran*, 46 F.3d 52, 54 (9th Cir. 1995). Civil Local Rule 7.1 provides: “If an
 2 opposing party fails to file the papers in the manner required by Civil Local Rule 7.1.e.2, that
 3 failure may constitute a consent to the granting of a motion or other request for ruling by the
 4 court.” S.D. Cal. Civ. Local Rule 7.1.f.3.a. “Although there is ... a [public] policy favoring
 5 disposition on the merits, it is the responsibility of the moving party to move towards that
 6 disposition at a reasonable pace, and to refrain from dilatory and evasive tactics.” *In re Eisen*,
 7 31 F.3d 1447, 1454 (9th Cir. 1994) (affirming grant of motion to dismiss for failure to
 8 prosecute); *see also Steel v. City of San Diego*, No. 09cv1743, 2009 WL 3715257, at *1 (S.D.
 9 Cal., Nov. 5, 2009) (dismissing action pursuant to Local Rule 7.1 for plaintiff’s failure to
 10 respond to a motion to dismiss).

11 The Motion to Dismiss contains a proof of service indicating that Plaintiff was served
 12 with the Motion to Dismiss and the Memorandum of Points and Authorities in Support of the
 13 Motion to Dismiss. (ECF No. 5). The Motion to Dismiss and the Court’s docket reflect that
 14 the hearing for the Motion to Dismiss was noticed for August 29, 2011. Civil Local Rule 7.1
 15 provides: “each party opposing a motion ... must file that opposition ... with the clerk ... not
 16 later than fourteen (14) calendar days prior to the noticed hearing.” S.D. Cal. Civ. Local Rule
 17 7.1(e)(2). As of the date of this Order, Plaintiff has failed to file an opposition. The Court
 18 concludes that “the public’s interest in expeditious resolution of litigation,” “the court’s need
 19 to manage its docket,” and “the risk of prejudice to the defendant” weigh in favor of granting
 20 the Motion to Dismiss for failure to file an opposition. *Ghazali*, 46 F.3d at 53.

21 CONCLUSION

22 IT IS HEREBY ORDERED that the Motion to Dismiss is GRANTED. (ECF No. 4).
 23 The Complaint is DISMISSED without prejudice as to Defendant ING Bank, FSB.
 24 DATED: September 13, 2011

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 26 **WILLIAM Q. HAYES**
 27 United States District Judge
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